November 8, 2001

Mary L. Cottrell
Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Competitive Market Initiatives; D.T.E. 01-54A

Dear Ms. Cottrell:

AES New Energy, Inc., Exelon Energy, Green Mountain Energy Company, National Energy Marketers Association, and Smart Energy (together the "Competitive Suppliers") submit the following opposition to the Motion of the Attorney General for Reconsideration and Clarification ("Attorney General Motion").

First, the Attorney General has not met the standard for the granting of a motion for reconsideration. The Attorney General sets out that standard quite clearly in his motion:

> The Department's standard of review for motions for reconsideration is well established. The Department grants reconsideration of its orders when "extraordinary circumstances dictate that we take a fresh look at the record. . .." *Boston Edison Company*, D.P.U. 90-270-A, pp. 2-3 (1991). "A motion for reconsideration should bring to light previously unknown or undisclosed facts that would have a significant impact upon the decision already rendered." *Id.* In addition, the Department grants reconsideration when its "decision is arguably the result of mistake or inadvertence." *Commonwealth Electric Company*, D.P.U. 89-114/90 -331/91-80, p. 4 (1991).

Attorney General Motion at p. 2.

However, the Attorney General has not met that standard. The Attorney General has cited no "extraordinary circumstances," no "previously unknown or undisclosed facts," and no evidence that the Department's decision was the result of "mistake or inadvertence."

Second, the Attorney General has misstated the basis for the Department's decision to make historic customer usage data available to competitive suppliers on an opt-out basis. The basis for that decision was ***not***, as the Attorney General asserts, to further the "private interests" of competitive suppliers. Rather, as the Department's order makes

perfectly clear, the basis of the decision was to foster competition, and thereby "to extend the efficiencies and probable cost-saving benefits of competition to consumers." Competitive Market Initiatives, D.T.E. 01-54A, p. 11 (October 15, 2001).

The Department correctly recognized that the previous system for obtaining historic customer usage information was creating a barrier to competition. The system was expensive, inefficient, and incompatible with efforts to market electricity to residential and commercial customers.

The Department therefore needed to balance ***customers' interests*** in obtaining the benefits of competition with ***customers' interests*** in the privacy of information. The balance struck by the Department is eminently reasonable. It will help competition to develop, while at the same time protecting privacy interests. It gives customers who wish to keep their usage information confidential the ability to do so. It also limits the information that is available to usage data, and excludes more sensitive information such as payment and credit information.

As the Department has recognized, Massachusetts is now half way through the "transition period," but as yet there is very little competition for mass-market customers. It is time to look critically at the system we have put in place, and to make the changes necessary to allow competition to develop. The Department has begun that effort. It should not be deterred.

For the foregoing reasons, the Competitive Suppliers respectfully urge the Department to deny the Attorney General's Motion.

Sincerely yours,

AES NEWENERGY, INC
By

John L. Giesser
530 Atlantic Avenue
Boston, MA 02210
(617) 772-7500

NATIONAL ENERGY MARKETERS ASSOCIATION
By

Stacey Rantala
3333 K Street, NW
Suite 425
Washington, DC 20007
(202) 333-3288

EXELON ENERGY
By

R. Scott Brown
Director-Business and Governmental Affairs, Exelon Enterprises
2600 Monroe Boulevard
Norristown, PA 19403
(610) 676-8160

SMART ENERGY, INC.
By

Patrick G. Jeffery
VP Regulatory and Public Affairs
200 Unicorn Park Drive
Woburn, MA 01801
(781)-460-2881

GREENMOUNTAIN ENERGY CO.
By

Karen O'Neill
Vice President – New Markets
75 Green Mountain Drive
South Burlington, VT 05403
(802) 846-2560

cc: Service List (via e-mail)